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It is believed to be advisable to further emphasize the new features of the present invention, in contrast to the solution proposed in the U.S. patent to Wainwright.

The patent to Wainwright discloses an intumescent composition. The novel approach disclosed in this reference is the incorporation of a fibrous inorganic silicate (Superwool X-607) in all examples. The purpose of this fiber is to strengthen the char produced and limit the size of bubble formation due intumescence. The level of intumescent ingredients in the examples is 40% or higher. This level would result in a flat or low gloss coating. The present invention proposes a paint, a method of painting, and a method of producing the paint, for painting in a predetermined color, containing a fire retardant component that will protect the surface from the consequences of fire. This is achieved without the incorporation of a fibrous inorganic silicate.

In addition to the new features of the present invention as defined in claims 1, 9, 24, claims 5, 13, 28 specifically define that no more than 15% of the intumescent specified ingredient blend is required to achieve protection of the substrate. This would allow the formulation of flat, semi-gloss and gloss paints. This feature of the present invention is not disclosed in the patent to Wainwright and can not be derived from it. It is therefore believed that claims 5, 13, 28 should be considered as patentably

distinguishing over the art not only because they depend on the presumably allowable claims 1, 9, 24, but also because they contain the allowable subject matter per se.

The Examiner's attention is also respectfully directed to the features of claim 7 in combination with claim 6, claim 14 in combination with claim 15, and claim 29 in combination with claim 30. These claims define the fire retardant component which includes melamine, pentaerythritol, and melamine polyphosphate with their specific content in the fire retardant component. As explained herein above, this specific fire retardant component with the specific content of its ingredients clearly and patentably distinguishes the present invention from the prior art represented by the patent to Wainwright. It is therefore believed that claims 7, 15, and 30 should be considered as patentably distinguishing over the art not only because they depend on the presumably allowable claims 1, 9, 24, but also because they contain the patentable subject matter per se.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance,

then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance; he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,

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